

Remarks

1. Status of the Claims

Claims 1-32, 36, 37, 39, 69-74 and 77 are presented. Claims 28-31, 39, and 70-74 stand withdrawn. Reconsideration is requested in view of the above changes and the following remarks.

Claim 1 has been amended to correct an error in nomenclature. In the first three compounds, "ethane" has been changed to *ethene*. The same change has been made in the specification. It is clear from the context that the latter is intended.

Claim 14 has been amended to eliminate the inadvertent repetitions of the compound (1E)-2-(3,4-dichlorophenyl)-1-[[4-chlorophenyl)methyl]-sulfinyl}ethene. The same change has been made in the specification.

All claims that are cancelled herein are cancelled without prejudice to the filing of one or more continuing applications.

Claim 36, has been objected to as being dependent on a rejected base claim, but has been indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 36 has so rewritten, and is therefore allowable.

2. Response to 35 USC 112 2nd Paragraph Rejection

Claims 1-27, 69 and 77 were rejected under Section 112 for containing non-elected subject matter (compounds wherein $n=0$). While applicants do not agree that Section 112 is a proper basis for rejecting claims that read on non-elected subject matter, the rejection is overcome by the amendment to claims 1 and 69, defining n as 1. Claims 1-27, 69 and 77 are thus in condition for allowance.

3. Response to 35 USC 112 1st Paragraph Rejection

Claims 33, 34, 35, 37 and 38 have been rejected for allegedly failing to comply with the enablement requirement. The rejection states that the specification is enabling for the treatment

of tumors of the breast, prostate and lung, and colorectal tumors. While applicants disagree with the rejection, in an effort to advance prosecution, claim 32 has been amended to recite treatment of the breast, prostate and lung, and colorectal cancers. Claim 37 has been amended to recite inducing apoptosis of tumor cells in the same cancers. Thus, claims 32 and 37 are believed to be in condition for allowance.

4. Request for Rejoinder of Claims 28-31, 39 and 70-74

Claims 28-31 and 39 are directed to conjugates of compounds of allowable claim 1 (claims 28-30), pharmaceutical compositions thereof (claim 31) and methods of treating breast, prostate, lung and colorectal cancer by administration of those conjugates (claim 39). These claims are directed to non-elected inventions that depend from or otherwise require all the limitations of an allowable claim to an elected invention, namely claim 1.

Accordingly, rejoinder and allowance of claims 28-31 is requested pursuant to MPEP 821.04(a):

Rejoinder Between Product Inventions; Rejoinder Between Process Inventions.

When restriction was required between independent or distinct products, or between independent and distinct processes, and all claims directed to an elected invention are allowable, any restriction requirement between the elected invention and any nonelected invention that depends from or otherwise requires all the limitations of an allowable claim should be withdrawn."

For the same reason, rejoinder and allowance of claim 39 is requested pursuant to MPEP 821.04(b):

Rejoinder of Process Requiring an Allowable Product.

Where claims directed to a product and to a process of making and/or using the product are presented in the same application, applicant may be called upon under 35 U.S.C. 121 to elect claims to either the product or a process. See MPEP § 806.05(f) and § 806.05(h). The claims to the nonelected invention will be withdrawn from further consideration under 37 CFR 1.142. See MPEP § 821 through § 821.03. However, if applicant elects a claim(s) directed to a product which is subsequently found allowable, withdrawn process claims which depend from or otherwise require all the limitations of an allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must depend from or otherwise require all the limitations of an allowable product claim for that process invention to be rejoined.

Upon rejoinder of claims directed to a previously nonelected process invention, the restriction requirement between the elected product and rejoined process(es) will be withdrawn.

Claims 70 and 71 depend from claim 69. The only basis for rejection of claim 69 has been overcome by amendment, as indicated above. Claim 69 is therefore allowable. Rejoinder of an allowance of claims 70 and 71 is requested, since claims 70 and 71 depend from claim 69. The basis of rejoinder is MPEP 821.04(b), reproduced above.

Claims 72 and 73 are directed to a process of making a compound of allowable claim 2. Claims 72 and 73 are thus rejoinable pursuant to MPEP 821.04(b).

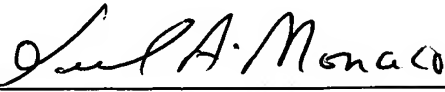
Claim 74 is a process for making compounds of certain sulfones compounds of Formula V. The scope of Formula V has been amended to reduce the scope of n to $n=1$. The process utilizes, as a starting material, a compound according to Formula I. The scope of the compound of Formula I, as defined in claim 74, is identical to the scope of the compound of Formula I set forth in allowable claim 1. Claim 74 is thus rejoinable pursuant to MPEP 821.04(b) as process claims which requires all the limitations of an allowable product claim.

5. Conclusion.

Based on the foregoing, it is believed respectfully submitted that all claims remaining in the application are in condition for allowance. Issuance of a notice of allowance is respectfully requested.

Respectfully submitted,

E. PREMKUMAR REDDY, *et al.*

BY 

DANIEL A. MONACO

Registration No. 30,480

Drinker Biddle & Reath LLP

One Logan Square

18th and Cherry Streets

Philadelphia, PA 19103-6996

Tel: (215) 988-3312

Fax: (215) 988-2757

Attorney for Applicants